



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
**ATTORNEY GENERAL**

July 2, 1962

Honorable Guilford L. Jones  
District Attorney  
118th Judicial District  
Big Spring, Texas

Opinion No. WW-1370

Re: Whether an appearance or bail bond is valid where executed by the principal in person and executed by one surety in person and as attorney in fact for the other surety and related question.

Dear Mr. Jones:

You have asked the following questions:

"(1) Is an appearance or bail bond valid where executed by the principal in person and executed by one surety in person and as attorney in fact for the other surety?"

"(2) Is an appeal bond in a criminal case valid where executed by the principal in person and by one surety in person and as attorney in fact for the other surety?"

Article 273, Texas Code of Criminal Procedure reads in part as follows:

"A bail bond shall be sufficient if it contains the following requisites:

"...

"4. That the bond be signed by name or mark by the principal and sureties."

In Walker v. State, 6 S.W.2d 356 (Tex.Crim. 1928), the Court of Criminal Appeals considered the statutory provisions relative to the execution of bail bonds and held that the signature or mark of the principal had to be made in person. The Court extended this ruling in Ex parte Meadows, 87 S.W.2d 254 (Tex.Crim. 1935) and held that where the names of the sureties on a bail bond were signed by the attorney in fact for said sureties who was duly authorized in writing to execute bail

bonds generally, this act did not comply with Article 273, §4 of the Texas Code of Criminal Procedure. Non-compliance made the bond void and of no effect.

In Wilkins v. State, 91 S.W.2d 354 (Tex.Crim. 1936), the Court held that where an attorney in fact signed the appeal bond instead of the surety in person, the bond was defective and therefore, the Court of Criminal Appeals had no jurisdiction.

The Court of Criminal Appeals held in Anderson v. State, 166 S.W.1164 (1914) that the bond now required in the appeal of a case from a Justice or Corporation Court to a County Court is nothing more than an appearance bond. See also Xydias v. State, 76 S.W. 761 (Tex.Crim. 1903).

In Sheppard v. Gill, 58 S.W.2d 169, 171, (Civ. App. 1933), (affirmed by the Supreme Court, 126 Tex. 603, 90 S.W.2d 563) the Court stated:

"C.C.P. Art. 273, subdivision 4, requires that a bail bond be signed by sureties. Article 277, C.C.P. provides that one surety shall be sufficient, if it be made to appear that such surety is worth at least double the amount of the sum for which he is bound, ..."

In view of the above cases, both your questions are answered in the negative, unless such bond is executed by one surety in person and the bond is accepted and approved as is provided for in Article 277, Texas Code of Criminal Procedure and related statutes.


#### S U M M A R Y

An appearance, appeal, or bail bond is invalid where executed by the principal in person and executed by one surety in person and as attorney in fact for the other surety, unless the surety executing the bond in person is accepted and approved, as is provided for in Article 277, Texas Code of Criminal Procedure and related statutes.

Sincerely,

WILL WILSON  
Attorney General of Texas

CRL:bjh

By   
Charles R. Lind  
Assistant Attorney General

Honorable Guilford L. Jones, page 3, Opinion No. WW-1370

APPROVED:

OPINION COMMITTEE

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